

**Senate Bill No. 1856**

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Passed the Senate      May 10, 2004

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*Secretary of the Senate*

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Passed the Assembly      August 18, 2004

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2004, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Sections 39011 and 42311.2 of the Health and Safety Code, and to amend Sections 4464 and 4475 of the Public Resources Code, relating to resources.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1856, Bowen. Prescribed burning activities.

Existing law provides varying definitions of “prescribed burning” for purposes of air pollution control laws and forest protection laws.

This bill would revise those definitions to reconcile the differences and would make related changes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 39011 of the Health and Safety Code is amended to read:

39011. “Agricultural burning” means open outdoor fires used in any of the following:

(a) Agricultural operations in the growing of crops or raising of fowl or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat, or disease or pest prevention.

(b) The operation or maintenance of a system for the delivery of water for the purposes specified in subdivision (a).

(c) Wildland vegetation management burning.

(1) For purposes of this subdivision, wildland vegetation management burning is the use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency, to burn land predominantly covered with chaparral, trees, grass, or standing brush.

(2) For purposes of this subdivision, prescribed burning is the planned application and confinement of fire to wildland fuels on lands selected in advance of that application to achieve any of the following objectives:

(A) Prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.

(B) Watershed management.



- (C) Range improvement.
- (D) Vegetation management.
- (E) Forest improvement.
- (F) Wildlife habitat improvement.
- (G) Air quality maintenance.

(3) The planned application of fire may include natural or accidental ignition.

SEC. 2. Section 42311.2 of the Health and Safety Code is amended to read:

42311.2. (a) Notwithstanding Section 42311, a district shall not adopt or impose fees that exceed actual district administrative costs for processing or enforcing permits applicable to any of the following:

(1) Prescribed burning operations on state responsibility lands conducted under the terms of a permit issued by the Department of Forestry and Fire Protection pursuant to Article 3 (commencing with Section 4491) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code when the purpose of the operation is prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.

(2) Burning of vegetation or disposal of slash following timber operations required under regulations adopted by the State Board of Forestry and Fire Protection pursuant to Section 4551.5 or 4562 of the Public Resources Code and for the purpose of reducing the incidence and spread of fires on timberlands.

(3) Wildland vegetation management burns.

(A) For purposes of this subdivision, “wildland vegetation management burn” means the use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency to burn land predominantly covered with chaparral, trees, grass, or standing brush.

(B) For purposes of this subdivision, “prescribed burning” is the planned application and confinement of fire to wildland fuels on lands selected in advance of that application to achieve any of the following objectives:

- (i) Prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.
- (ii) Watershed management.
- (iii) Range improvement.
- (iv) Vegetation management.



- (v) Forest improvement.
- (vi) Wildlife habitat improvement.
- (vii) Air quality maintenance.

(C) The planned application of fire may include natural or accidental ignition.

(b) Prior to adopting or revising fees for the activities described in paragraph (1), (2), or (3) of subdivision (a), a district shall hold a public hearing and shall consider the following:

(1) The costs of the fees on private landowners and other persons who engage in activities specified in paragraph (1), (2), or (3) of subdivision (a).

(2) Any revenues currently provided to the county for general government by public agencies that administer public lands.

SEC. 3. Section 4464 of the Public Resources Code is amended to read:

4464. Unless the context clearly requires otherwise, the following definitions govern the construction of this chapter:

(a) “Wildland” means any land that is classified as a state responsibility area pursuant to Article 3 (commencing with Section 4125) of Chapter 1 and includes any land having a plant cover consisting principally of grasses, forbs, or shrubs that are valuable for forage. “Wildland” also means any lands that are contiguous to lands classified as a state responsibility area if wildland fuel accumulation is such that a wildland fire occurring on these lands would pose a threat to the adjacent state responsibility area.

(b) “Wildland fuel” means any timber, brush, grass, or other flammable vegetation, living or dead, standing or down.

(c) “Wildland fire” means any uncontrolled fire burning on wildland.

(d) “Prescribed burning” or “prescribed burning operation” means the planned application and confinement of fire to wildland fuels on lands selected in advance of that application to achieve any of the following objectives:

(1) Prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.

- (2) Watershed management.
- (3) Range improvement.
- (4) Vegetation management.
- (5) Forest improvement.



(6) Wildlife habitat improvement.

(7) Air quality maintenance.

(e) “Prescribed burn crew” means personnel and firefighting equipment of the department that are prepared to contain fire set in a prescribed burning operation and to suppress any fire that escapes during a prescribed burning operation.

(f) “Person” means any natural person, firm, association, partnership, business trust, corporation, limited liability company, company, or combination thereof, or any public agency other than an agency of the federal government.

SEC. 4. Section 4475 of the Public Resources Code is amended to read:

4475. The director, with the approval of the Director of General Services, may enter into a contract for prescribed burning with (1) the owner or any other person who has legal control of any property or (2) any public agency with regulatory or natural resource management authority over any property that is included within any wildland for any of the following purposes, or any combination thereof:

(a) Prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.

(b) Watershed management.

(c) Range improvement.

(d) Vegetation management.

(e) Forest improvement.

(f) Wildlife habitat improvement.

(g) Air quality maintenance.

No contract may be entered into pursuant to this section unless the director determines that the public benefits estimated to be derived from the prescribed burning pursuant to the contract will be equal to or greater than the foreseeable damage that could result from the prescribed burning.



Approved \_\_\_\_\_, 2004

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*Governor*

